

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Liliana Manuel	Team: Squad #7	CCRB Case #: 201600931	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Thursday, 01/28/2016 1:48 PM	Location of Incident: Wooster Street and Broome Street	Precinct: 01	18 Mo. SOL 7/28/2017	EO SOL 7/28/2017	
Date/Time CV Reported Thu, 01/28/2016 10:21 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 02/04/2016 2:17 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. SGT Frederic Ortiz	03659	935440	PBMS SU
2. Officers			
3. An officer			

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Robinson Martinez	27247	947224	PBMS SU
2. SGT Emelio Rodriques	04820	931944	001 PCT
3. SGT Matthew Woods	754	935986	001 PCT
4. POM Douglas Lopez	25519	946514	001 PCT
5. POM Joseph Cristiano	03766	943115	001 PCT
6. POM Alexander Chateau	16384	954634	001 PCT
7. POM Guydee Surpris	23406	953458	001 PCT
8. POM Evan Mele	04939	952002	001 PCT
9. POM Matthew Fahy	7248	954786	001 PCT
10. POM Steven Muirhead	24943	955230	001 PCT
11. POM Christophe Stack	08120	955526	MTS PCT
12. POM Jose Leslie	22036	952985	MTN PCT

Officer(s)	Allegation	Investigator Recommendation
A. An officer	Discourtesy: An officer spoke discourteously to § 87(2)(b) on Broome Street and Wooster Street in Manhattan.	
B. Officers	Force: Officers used physical force against § 87(2)(b) on Broome Street and Wooster Street in Manhattan.	
C.SGT Frederic Ortiz	Force: Sergeant Frederic Ortiz used physical force against § 87(2)(b) on Greene Street in Manhattan.	
D.SGT Frederic Ortiz	Force: Sergeant Frederic Ortiz hit § 87(2)(b) against a vehicle door on Greene Street in Manhattan.	

### Case Summary

On January 28, 2016, Sgt Frederic Ortiz of Patrol Boro Manhattan South Anti-Crime filed the following IAB complaint on behalf of § 87(2)(b) who sustained a scratch above his eye while in police custody (Board Review 01). The complaint generated original log number § 87(2)(b) and was received at the CCRB on February 4, 2016.

On January 28, 2016, at approximately 1:48 p.m., Sgt Ortiz and PO Robinson Martinez of Patrol Boro Manhattan South Anti-Crime, responded to the Yves Saint Laurent (YSL) store, located on 80 Greene Street in Manhattan, after receiving a call from a YSL employee, stating that § 87(2)(b) was attempting to purchase merchandise with a forged credit card. Upon seeing the officers, § 87(2)(b) fled on foot. Numerous officers from a SoHo Grand Larceny Prevention Detail joined the foot pursuit (Board Review 20). § 87(2)(b) was eventually stopped at Wooster Street and Broome Street, at which time an officer allegedly stated, “Why the fuck did you run?” (**Allegation A**). While handcuffing § 87(2)(b) officers allegedly punched § 87(2)(b) right and left eye, and the back of his head (**Allegation B**). Sgt Ortiz allegedly punched § 87(2)(b) in the stomach and closed the RMP door on § 87(2)(b) legs (**Allegation C and D**). § 87(2)(b) complained of shoulder pain and was transported to § 87(2)(b), where he was diagnosed with scratches above his eye. § 87(2)(b) was arrested for § 87(2)(b) (Board Review 02). § 87(2)(b) girlfriend, § 87(2)(b) was arrested shortly after § 87(2)(b) but was not present for his arrest (Board Review 03). No surveillance footage was found.

### Mediation, Civil and Criminal Histories

- This case was unsuitable for mediation.
- As of March 3, 2016, § 87(2)(b) had not filed a Notice of Claim with regard to this incident (Board Review 04).

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]  
[REDACTED]
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]  
[REDACTED]  
[REDACTED]  
[REDACTED]
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

### Civilian and Officer CCRB Histories

- This is the second CCRB complaint involving § 87(2)(b) (Board Review 06) § 87(2)(b)  
[REDACTED]  
[REDACTED]
- Sgt Ortiz has been a member of the NYPD for 11 years. He has had ten previous CCRB cases involving twenty allegations, none of which were substantiated. In addition to the three force allegations mentioned above, Sgt Ortiz had two prior allegations of force, which were closed as “Complainant Uncooperative” and “Victim Uncooperative.”

### Findings and Recommendations

#### Explanation of Subject Officer Identification

§ 87(2)(b) alleged that while he was face-down on the ground, surrounded by approximately five or six officers, an officer stated, “Why the fuck did you run?” § 87(2)(b) was unable to see who stated this. All

interviewed officers denied making or hearing other officers make the alleged statement, and NYPD documents confirmed that at least thirteen officers responded to the incident (Board Review 07; 08; 09; 10; 11; 12; 13; 14; 15; 16; 17; 18; 19). § 87(2)(b)

§ 87(2)(b) alleged that while he was being handcuffed, an officer punched the left side of his face once or twice. § 87(2)(b) did not see which officer did so. He stated that once handcuffed, another officer, who he described as a white male in his late 20s or early 30s punched § 87(2)(b) right eye three to four times, and punched the back of his head once. § 87(2)(b) was unable to describe the officer any further. The investigation identified six white male officers from the 1<sup>st</sup> Precinct and one white male officer from the 14<sup>th</sup> Precinct whose memo books confirmed they responded to the incident (Board Review 09; 10; 11; 12; 13; 16; 18). While one of these officers is 41-years-old, the rest are between 24 and 36-years-old. Furthermore, the Grand Larceny detailed roster listed an additional four white males ranging from 24 to 32-years-old from the 6<sup>th</sup>, 14<sup>th</sup>, and 17<sup>th</sup> precinct, all of whom were working in the vicinity of the incident and may have responded to the request for backup (Board Review 20).

PO Joseph Cristiano and PO Douglas Lopez from the 1<sup>st</sup> Precinct, as well as Sgt Ortiz and PO Martinez were interviewed at the CCRB (Board Review 27; 28; 29; 30). PO Lopez, Sgt Ortiz, and PO Martinez confirmed that they were involved in the struggle with § 87(2)(b) and PO Cristiano acknowledged having approached § 87(2)(b) once he was apprehended. All interviewed officers confirmed that multiple additional officers, whom they were unable to identify, were involved in the struggle, and that these officers were likely from various commands. The interviewed officers denied punching or seeing another officer punch § 87(2)(b) § 87(2)(g)

**Allegation A – Discourtesy: An officer spoke discourteously to § 87(2)(b) on Broome Street and Wooster Street in Manhattan.**

§ 87(2)(b) was interviewed via video teleconference on March 11, 2016, while he was being held at § 87(2)(b) (Board Review 26). He stated that upon exiting the YSL store, he fled from officers and ran approximately two and a half blocks to the corner of Wooster Street and Broome Street. While he was surrounded by approximately five or six officers, an officer asked him, “Why the fuck did you run?”

§ 87(2)(g)

**Allegation B – Force: Officers used physical force against § 87(2)(b) on Broome Street and Wooster Street in Manhattan.**

§ 87(2)(b) stated that upon falling to the ground, he attempted to push himself up off of the ground, but officers prevented him from doing so. § 87(2)(b) denied resisting, but recounted an officer yelling, “Stop reaching!” § 87(2)(b) alleged that while on the ground, before and after he was handcuffed, he was punched multiple times on the left and right sides of his face, as well as the back of his head. He stated that his left and right eyes were swollen as a result. § 87(2)(b) claimed to have sustained abrasions to his left cheek and brow during the struggle, but did not know how exactly he sustained those injuries.

PO Lopez, Sgt Ortiz, and PO Martinez, stated that numerous officers struggled to handcuff § 87(2)(b) who was facedown and refusing to be handcuffed by holding his arms beneath his body. The officers described § 87(2)(b) as being very strong, and stated that once they were able to handcuff one of § 87(2)(b) arms, they continued to struggle to gain control of the other. None of the interviewed officers observed the alleged injuries to § 87(2)(b) eyes and face, and they did not know how he could have sustained such injuries.

§ 87(2)(b) arrest photo shows minor swelling to his left eye, and an abrasion above his left eye (Board Review 21). § 87(2)(b) confirmed that he did not require stitches, and Sgt Ortiz reported to IAB that § 87(2)(b) was diagnosed with minor scratches above his eye (Board Review 01). § 87(2)(b) was unable to locate § 87(2)(b) medical records, but the Medical Treatment of Prisoner Report made no mention

of any facial injuries (Board Review 25; 22). [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

[§ 87(2)(g)]

**Allegation D – Force: Sergeant Frederic Ortiz used physical force against [§ 87(2)(b)] on Greene Street in Manhattan.**

**Allegation C – Force: Sergeant Frederic Ortiz hit [§ 87(2)(b)] against a vehicle door on Greene Street in Manhattan.**

[§ 87(2)(b)] stated that after he was handcuffed, he was placed into an RMP with Sgt Ortiz and PO Martinez, and he and the officers returned to YSL. PO Martinez went into YSL while [§ 87(2)(b)] remained in the RMP with Sgt Ortiz. While [§ 87(2)(b)] was lying down in the back seat of the RMP, he received a call from [§ 87(2)(b)]. [§ 87(2)(b)] answered the phone and spoke with her. Sgt Ortiz then exited the RMP, opened the back door, and took the phone from [§ 87(2)(b)]. He asked [§ 87(2)(b)] if he was trying to kill him, and stated, “You might have had a gun.” [§ 87(2)(b)] feet protruded out of the car door when Sgt Ortiz opened the door, and [§ 87(2)(b)] alleged that after taking his phone, Sgt Ortiz slammed the door shut, hitting [§ 87(2)(b)] legs. [§ 87(2)(b)] did not sustain any injuries as a result.

Sgt Ortiz stated that while driving on Greene Street with [§ 87(2)(b)] who was still in handcuffs, he looked in his rearview mirror and saw [§ 87(2)(b)] with his hands in his underwear near his buttocks, moving around. It seemed to Sgt Ortiz that [§ 87(2)(b)] had an object in his possession, and knowing that [§ 87(2)(b)] had had a firearm during a past arrest, Sgt Ortiz feared that [§ 87(2)(b)] was reaching for a gun and was going to shoot him. Sgt Ortiz pulled over, opened the backseat door, and asked [§ 87(2)(b)] what he was reaching for. [§ 87(2)(b)] did not respond. He was lying across the seat with his hands behind him in his underwear, and it appeared to Sgt Ortiz that he had something in his hand. As Sgt Ortiz attempted to reach towards [§ 87(2)(b)] arms, [§ 87(2)(b)] stretched out his legs, using his feet as a barrier to prevent Sgt Ortiz from getting into the RMP. Sgt Ortiz was unsure if [§ 87(2)(b)] legs or feet were protruding out of the car door. Sgt Ortiz struggled with [§ 87(2)(b)] to get into the RMP, and [§ 87(2)(b)] continued to reach into his underwear.

Unable to get ahold of [§ 87(2)(b)] hands, Sgt Ortiz punched the center of [§ 87(2)(b)] stomach with his right fist. Sgt Ortiz explained that he did so to cause a knee-jerk reaction in which [§ 87(2)(b)] would lift his hands up. The punch caused [§ 87(2)(b)] elbows to bend, and caused his arms to jerk up out of his pants. Sgt Martinez believed he only punched [§ 87(2)(b)] stomach once, but acknowledged that it may have been twice. He did not punch [§ 87(2)(b)] again once [§ 87(2)(b)] lifted up his hands. Once [§ 87(2)(b)] lifted his hands out of his underwear, Sgt Ortiz realized that [§ 87(2)(b)] was holding a cell phone, which was engaged in an active call with [§ 87(2)(b)]. Sgt Ortiz did not recall having closed the RMP door on [§ 87(2)(b)] legs, and did not know if [§ 87(2)(b)] legs or feet were protruding from the car when he closed the door. At no point did Sgt Ortiz hear [§ 87(2)(b)] complain of any leg injury, and at no point did he learn of [§ 87(2)(b)] having made such a complaint.

PO Martinez stated that when [§ 87(2)(b)] was placed in an RMP, he refused to sit properly by sitting with his back towards the door and with his feet pointed towards the driver. PO Martinez confirmed that he returned to YSL, but denied going with Sgt Ortiz and [§ 87(2)(b)] and denied witnessing the alleged force.

Officers are required to maintain control, and they may use the minimum amount of force necessary to overcome resistance or to enforce compliance with a lawful order, NYPD Patrol Guide, Procedure 203-11 (Board Review 23).

[§ 87(2)(g)]

§ 87(2)(g) [Redacted]  
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Squad: \_\_\_\_

Investigator:	_____	_____	_____
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Squad Leader:	_____	_____	_____
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Reviewer:	_____	_____	_____
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